

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ANDREW R. PERRONG,

Plaintiff,

-against-

BRIEF CALL, INC., NEW YORK
VETERAN POLICE ASSOCIATION, and
LOUIS TELANO,

Defendants.

ORDER

22 Civ. 4128 (PGG) (SN)

PAUL G. GARDEPHE, U.S.D.J.:

The Complaint in this Telephone Consumer Protection Act case was filed on May 19, 2022. (Cmplt. (Dkt. No. 1)) On June 27, 2022, this case was referred to Magistrate Judge Sarah Netburn for general pretrial supervision. (Dkt. No. 6) Defendant Brief Call, Inc. was served on July 14, 2022. (Aff. of Service (Dkt. No. 11)) Defendant New York Veteran Police Association was served on July 26, 2022 (Aff. of Service (Dkt. No. 13))

On August 2, 2022, Defendant Brief Call filed a motion to dismiss (Dkt. Nos. 9–10). On August 12, 2022, the Court ordered the motion struck on the grounds that Brief Call had improperly attempted to proceed pro se. (Dkt. No. 16 (citing Jones v. Niagara Frontier Transp. Auth., 22 F.2d 20, 22 (2d. Cir. 1983); U.S. ex rel. Mergent Servs. v. Flaherty, 540 F.3d 89, 92 (2d Cir. 2008))) In the August 12, 2022, order, the Court set a deadline of September 7, 2022, for “an attorney admitted in the Southern District of New York” appearing on behalf of Brief Call to “refile [the motion to dismiss] . . . or to answer the complaint.” (Id.) To date, no attorney has entered an appearance of behalf of Brief Call, and there has been no answer or refiled motion to dismiss. A defendant’s “willful disregard[] [of a] district court’s order that the defendant

appear through counsel . . . justify[s] [] imposing default.” City of New York v. Mickalis Pawn Shop, LLC, 645 F.3d 114, 130 (2d Cir. 2011) (citing Eagle Assocs. v. Bank of Montreal, 926 F.2d 1305, 1310 (2d Cir. 1991) (“Having determined that the district court properly ordered [defendant] to appear through counsel, it was appropriate to enter a default judgment when [defendant] willfully disregarded the district court's order.”)).

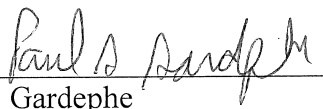
As to Defendant New York Veteran Police Association, no notice of appearance has been entered and no answer has been filed.

On November 29, 2022, the Clerk of Court issued certificates of default as to Defendants Brief Call and New York Veteran Police Association. (Dkt. Nos. 31–32)

By December 16, 2022, Plaintiff will move for a default judgment against Defendants Brief Call and New York Veteran Police Association in accordance with this Court’s Individual Rule of Practice VIII (available at <https://www.nysd.uscourts.gov/hon-paul-g-gardephe>). Plaintiff will follow the procedure laid out in Attachment A to the Individual Rules of Practice, except that Plaintiff need not submit the documents in person and may file them via ECF.

Dated: New York, New York
December 2, 2022

SO ORDERED.



Paul G. Gardephe
United States District Judge